

**CEMETERY TASK FORCE
MEETING MINUTES
1400 EAST WASHINGTON AVENUE, MADISON
NOVEMBER 13, 1998**

PRESENT: William Downs, III, Marie Drescher, Leslie Eisenberg, Peter Gunderson, Dorinda Floyd, Thomas Hanlon, Ed Huck, Sarah Kamke, Daniel Kilkenny, Leroy Mixon, E Glen Porter, III, Jon Ruatti, Laurel Schaftary, Bill Smith, David Stucki, Richard Stadelman

ABSENT: Kelly Coleman, Dewey Mathewson, Willa Jean Moore and Michael Schuman.

R&L STAFF: Secretary Marlene Cummings, Cletus Hansen, Jacquelynn Rothstein, Steven Gloe, Henry Sanders and several other staff members in the Division of Enforcement.

CALL TO ORDER

The meeting was called to order at 9:35 a.m. by Secretary Marlene Cummings.

WELCOME AND INTRODUCTIONS

Cletus Hansen, Division Administrator

- **Task Force Membership Roster**

The task force members received a copy of the roster. Committee members introduced themselves. Clete Hansen explained the plan of action for this meeting, including presentations by 4 speakers and some discussion about problems with the current cemetery regulations. Hansen pointed out that future meetings will include more discussion of problems and potential solutions, including suggestions for statutory or rule changes.

Clete Hansen also explained the problems relating to creating a reliable mailing list of cemeteries in the state of Wisconsin. He said there may well be 2,500 cemeteries in Wisconsin. Since the Department does not have jurisdiction over most cemeteries, the Department has no reliable way of keeping abreast of address changes of cemetery officials throughout the state.

Secretary Marlene Cummings

- **Purpose and Goals of the Task Force**

Secretary Cummings welcomed task force members and guests. She welcomed Carolyn Jacobi, President of Eternal Justice. She also explained the purpose of the task force, the goals of the task force and the criteria for decisions, as described in the brochure of the Small Business Review Advisory Committee, which was in the meeting packet.

OVERVIEW OF CURRENT CEMETERY REGULATION

Jacquelynn Rothstein, Legal Counsel For Cemetery and Funeral Director Regulation in the Department of Regulation and Licensing. Jacquelynn Rothstein referred to document #4946, entitled “Wisconsin Cemetery Regulations,” dated 6/96. She summarized the regulations by differentiating between not-for-profit cemeteries which sell less than 10 cemetery lots per year, municipal cemeteries, religious cemeteries and cemeteries which sell 10 or more cemetery lots per year. She referred to the Department’s responsibility of approving the sale or encumbrance of registered cemeteries, the auditing of care fund accounts, the review of annual reports, and the investigation and prosecution of complaints. She also distributed and explained a document entitled “Cemeteries: Jurisdiction Responsibilities,” which distinguishes between the responsibilities of the Department of Regulation and Licensing, district attorneys and the Attorney General, and cities, towns, villages and counties relating to cemeteries.

E. Glenn Porter, III, Highland Memorial Park (New Berlin). Glenn Porter reviewed key elements of the cemetery regulation which was in effect before November 1, 1991. He discussed the fact that the new law was a lengthy document, the Real Estate Board regulated cemeteries before November 1, 1991, care funds were called perpetual care funds under the former law and that law did not require a specific percentage or dollar amount for care funds relating to the sale of a cemetery lot, the 3 sources of care funds (assessment, perpetual care by contract, gifts), care funds for the sale of mausoleum spaces, abandonment of cemeteries, the creation of cemetery associations, the conveyance of cemeteries, contracts for the sale of lots and other related issues.

Leslie Eisenberg, Program Director, Burial Sites Preservation Program, State Historical Society of Wisconsin. Leslie Eisenberg distributed materials relating to the Burial Sites Preservation Program. She briefly explained her role and the types of situations she becomes involved in. She referred to marked and unmarked burial sites, family plots and individual plots. She explained how records are maintained by her office, relating to the location of burial sites and stated that her office has a computerized inventory of 9,000 burial sites in Wisconsin. She talked about the location of burial sites and stated that many are unmarked and have no deeds. She said that, even if there are deeds, many former cemeteries still cannot be located. She said that all burials are protected from disturbance and there are penalties for those who do intentionally disturb graves. Her office is able to file deeds with the Register of Deeds and protect burial sites. She said that one of the biggest problems is having sufficient money for upkeep and maintenance of cemeteries and mausoleums. Many townships do not have the funds to maintain the cemeteries in their jurisdiction. Finally, she distributed computer data and discussed two problem situations: the Hubbard Family Cemetery in Manitowoc and Fairview Mausoleum in Milwaukee.

Steven Gloe, Prosecutor, Department of Regulation and Licensing. Steven Gloe distributed and explained recommendations for revising the statutory provisions relating to disciplinary actions and proceedings. He also suggested that the potential ambiguity in s. 157.08, Stats., regarding the sale of stock versus the sale of land, should be corrected.

Henry Sanders, Prosecutor, Department of Regulation and Licensing. Henry Sanders reviewed the number and the types of complaints which have been received against cemeteries, cemetery salespersons and preneed sellers of cemetery merchandise.

COMMENTS FROM THE PUBLIC

At Secretary Marlene Cummings' request, Carolyn Jacobi spoke to the Task Force members about problems which her group has found with certain cemeteries in Wisconsin and in other states. She stated that her group will continue to take whatever action is necessary to clean up problems and change the laws, so that cemeteries will be properly operated and maintained and so that the rights of consumers will be protected.

IDENTIFICATION OF PROBLEMS

The Task Force viewed a short segment from ABC's "20/20" about serious cemetery problems across the United States, including Evergreen Cemetery in Milwaukee. The segment was aired on Sunday, November 8, 1998, at 8 p.m.

Task Force members began to discuss problems with the current regulation. The following issues were raised and discussed (some more lengthily than others):

- Problems relating to the Fairview Mausoleum and Evergreen Cemetery in Milwaukee.
- Why municipal, religious and small non-profit cemeteries were exempted from the department's regulatory authority, to what degree they should continue to be exempted, and the impact on small non-profit cemeteries if stricter requirements were imposed on them.
- The statewide impact of the industry and the fact that an owner who has problems in one area of the state should not be permitted to carry on in another area.
- The lack of standards for management and care.
- The need for a funding source to protect consumers. For example, the revised statutes in 1991 allowed for a consumer protection fund; however, provisions relating to the fund were later repealed.
- Auditing procedures.
- Weak statutory penalties for violations.
- Disclosure of the costs for cemetery sales and services, as required of funeral directors.
- Trusteeships for failing cemeteries.

Secretary Cummings identified 3 major problems in the cemetery statutes: provision relating to cemetery maintenance, platting and definitions (such as the definition of "cemetery").

NEXT MEETING

The next meeting will be January 8, 1999, from 9:30 a.m. until 12:30 p.m. The agenda will provide for more discussion of problems and potential solutions. Secretary Cummings stated that department staff will prepare a document which the Task Force will also be asked to review.

ADJOURNMENT

The meeting adjourned at 12:30 p.m.